

Senate Study Bill 3141 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

1 An Act relating to transfer of guardianship for a child in need
2 of assistance to the probate court.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.104, subsection 7, Code 2009, is
2 amended to read as follows:

3 7. a. Following an initial permanency hearing and the
4 entry of a permanency order which places a child in the custody
5 or guardianship of another person or agency, the court shall
6 retain jurisdiction and annually review the order to ascertain
7 whether the best interest of the child is being served. When
8 the order places the child in the custody of the department
9 for the purpose of long-term foster care placement in a
10 facility, the review shall be in a hearing that shall not be
11 waived or continued beyond twelve months after the initial
12 permanency hearing or the last permanency review hearing. Any
13 modification shall be accomplished through a hearing procedure
14 following reasonable notice. During the hearing, all relevant
15 and material evidence shall be admitted and procedural due
16 process shall be provided to all parties.

17 b. In lieu of the procedures specified in paragraph "a",
18 the court may close the child in need of assistance case by
19 transferring jurisdiction over the child's guardianship to the
20 probate court. Before transferring jurisdiction, the court
21 shall direct the probate clerk to issue letters of appointment
22 for guardianship and docket the case in probate.

23 Sec. 2. Section 633.559, Code 2009, is amended to read as
24 follows:

25 **633.559 Preference as to appointment of guardian.**

26 The Except for a minor child for whom the court's
27 jurisdiction over the child's guardianship was established
28 pursuant to transfer of the child's case in accordance with
29 section 232.104, the parents of a minor child, or either of
30 them, if qualified and suitable, shall be preferred over all
31 others for appointment as guardian. Preference shall then be
32 given to any person, if qualified and suitable, nominated as
33 guardian for a minor child by a will executed by the parent
34 having custody of a minor child, and any qualified and suitable
35 person requested by a minor fourteen years of age or older, or

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1 transferred child in need of assistance cases.

2 New Code section 633.563 prohibits the probate court from
3 entering an order closing a transferred child in need of
4 assistance guardianship before the child becomes age 18 unless
5 the court finds by clear and convincing evidence that the best
6 interests of the child warrant a return of custody to the
7 child's parent.